

**No. 22-15514**

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ILIJA MATUKSO,

Claimant-Appellant,

v.

APPROXIMATELY 69,370 BITCOIN (BTC), BITCOIN GOLD (BTG),  
BITCOIN SV (BSV), AND BITCOIN CASH (BCH),

Defendant.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
NO. 3:20-CV-07811-RS

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**UNITED STATES’S RESPONSE TO CLAIMANT-APPELLANT’S  
RESPONSE TO ORDER TO SHOW CAUSE**

As Claimant-Appellant Ilija Matukso concedes, because there is presently no final judgment triggering this Court’s jurisdiction under 28 U.S.C. § 1291, this Court does not currently have jurisdiction over his appeal. *See* Dkt. 10.

“A notice of appeal filed before the entry of the judgment or order is treated as filed on the date of and after the entry.” Fed. R. App. P. 4(a)(2). Thus, to the extent that Matukso asks that his notice of appeal be considered filed upon the entry of final judgment, so that he can avoid filing a second notice of appeal, the government has no objection. But the appeal is not properly considered to be pending and in abeyance until that time.

The government furthermore informs the Court that it opposes Matukso’s motion in the district court for a final judgment as to his claim alone under Fed. R. Civ. P. 54(b). Dkt. 10; CR-115. In an action involving multiple parties, such as this one, a decision that adjudicates the liability of fewer than all of the parties does not terminate the action and is not appealable unless certified by the district judge under Rule 54(b). *Askanase v. Livingwell, Inc.*, 981 F.2d 807, 810 (5th Cir. 1993) (cited by *United States v. M/Y GALACTICA STAR*, 784 F. App’x 268, 272 (5th Cir. 2019)). But certification under Rule 54(b) is not appropriate unless the district court “expressly determines that there is no just reason for delay.” Fed. R. Civ. P. 54(b). Here, where all of the claimants seek the same defendant property of Bitcoin, and the claim of claimant Lucas Buckley and the Gox Victim Bitcoin Trust remains pending, and is set for hearing on June 9, 2022, there is a just reason

to delay appeal until all of the claims to the same defendant property have been adjudicated by the district court.

Dated: May 9, 2022

Respectfully submitted,

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